IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

Crl. MC.No. 2517 of 2004(D)

CP.59/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II, TRIVANDRUM

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PETITIONER: ACCUSED:

M.BALAN,
T.C.V/533, `THRIPTHI', PEROORKADA,
THIRUVANANTHAPURAM-5.

BY ADV. SRI.PIRAPPANCODE V.SREEDHARAN NAIR
SRI.PIRAPPANCODE V.S.SUDHEER

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
OFFICE OF THE ADVOCATE GENERAL,HIGH COURT BUILDING
ERNAKULAM (SUB INSPECTOR OF POLICE, PEROORKADA).

BY ADV. SRI. C.M. KAMAPPU, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

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CRL. M.C. NO. 2517 OF 2004 D

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Dated this the 30th day of January 2007

O R D E R

The petitioner, who is the accused in C.P. 59/2004 in the file of Judicial First Class Magistrate's Court-II, Thiruvananthapuram for the offence under section 17 of Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (Act 11 of 1996), has sought for getting quashed the proceedings initiated against him. It is his case that he is not liable to be prosecuted again in view of Annexure X, Government Order No. 304/2000 dated 04.05.2000. The above order specifically excludes initiation of prosecution proceedings against a person who had managed to receive the benefits on the basis of an incorrect caste certificate vide clause 3 (II) of the above order. As per the relevant clause all steps punitive in nature which are recited in clause 3(I) A to D can be initiated against such person except the prosecution steps contemplated under clause E of the above provision. It is

submitted that the petitioner obtained benefits on the basis of the alleged incorrect caste certificate before the commencement of the statute mentioned above. It is further submitted that he retired from service on 31.12.1997. The statute has came into force on 01.10.1996. Indisputably the petitioner managed to receive the benefits on the basis of the incorrect cast certificate before the commencement of the Act 11 of 1996.

2. I find that in view of the specific clause in the Government Order dated 04.05.2000, initiation of prosecution steps initiated under Act 11 of 1996 cannot be sustained. In the circumstances, the proceedings in C.P. 59/2004 against the petitioner in the file of Judicial First Class Magistrate's Court - II, Thiruvananthapuram is herewith quashed.

The Crl. M.C is allowed accordingly.

K.R. UDAYABHANU, JUDGE.

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